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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Dieter Ramsauer

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REED SMITH, LLP

ATTN: PATENT RECORDS DEPARTMENT

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NEW YORK, NY 10022-7650

EXAMINER

MERLINO, ALYSON MARIE

ART UNIT

PAPER NUMBER

3673

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,205	<b>Applicant(s)</b> RAMSAUER ET AL.	
	<b>Examiner</b> ALYSON M. MERLINO	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Figures 7, 8A, 8B</u> .                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 January 2009 has been entered.
2. The examiner acknowledges applicant's amendments to claims 20-40 filed 10 November 2008.

### ***Drawings***

3. In regards to Figures 7, 8A, and 8B, these drawings will not be considered until further explanation from applicant in regards to the rejection of claims 20-40 under 35 U.S.C. 112, first paragraph, set forth below.

### ***Specification***

4. The disclosure is objected to because of the following informalities:
  - a. The specification does not include a brief description of Figures 7, 8A, and 8B. Furthermore, these figures are not referenced in the detailed description of the device.
  - b. The specification should include a description of the lock element, in its entirety, being made of plastic or of a metal part with a coating of a material, As recited in claim 30.

Appropriate correction is required.

***Claim Objections***

5. **Claims 20 and 24-30 are objected to** because of the following informalities:
- a. In the last line of claim 20, it is suggested that the phrase “with the lock element or lock elements” be changed to “with the at least one lock element” in accordance with the preceding lines of the claim.
  - b. In regards to claim 24, line 3, the phrase "wherein the at least one lock element" should be "wherein each of the at least one lock element."
  - c. In regards to claims 25-30, each instance of the phrase “the lock element” should be changed to “the at least one lock element” in accordance with claim 20.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. **Claims 20-40 are rejected** under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the device operates in light of the newly added Figures 7, 8A, and 8B, in view of the specification. Figure 7 shows the drive toothed wheel 18

Art Unit: 3673

connected to the lever 16, however, Figure 3 shows the driven toothed wheel 26 connected to the lever. It is unclear whether the drive toothed wheel 18 is connected to and rotated by the lever 16, with the drive toothed wheel engaging the lock rod 20, so that when the drive toothed wheel is rotated, the lock rod rotates a driven toothed wheel 26 that is connected to a lock element, or that the drive toothed wheel 18 and the driven toothed wheel, since they have the same structure, are interchangeable in their positions with respect to the lever and the lock element. Furthermore, the specification discusses multiple drive toothed wheels (Paragraph 36), and it is unclear how the device incorporates multiple drive toothed wheels if the claims recite one drive toothed wheel connected to the actuation member. For examination purposes, the claims will be given a broad interpretation until further clarification from applicant.

8. **In regards to claim 28**, it is unclear from the specification to which closing forces applicant is referring since the specification only states that the high closing forces must be overcome, not that closing forces are applied to the shaped part. For examination purposes, the claim will be given a broad interpretation until further clarification from applicant.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. **Claim 39 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to which "toothed wheel" applicant is referring to

Art Unit: 3673

in the claim. For examination purposes, the claim will be given a broad interpretation until further clarification from applicant.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. **Claims 20-23, 25-32, 39, and 40 are rejected** under 35 U.S.C. 102(b) as being anticipated by Fisher (US-959494).

13. **In regards to claim 20**, Fisher discloses a fastener for multiple locking of doors or wall portions in housings or cabinets including a lockable actuation member 19, such as a lever (Figure 1), a drive toothed wheel 4a, 15a which is connected to the actuation member (Figures 2 and 3) supported in a door so as to be rigid against rotation with respect to the actuation member (apparent that drive toothed wheel is rigidly connected to the actuation member by stem 4a, Figures 2 and 3) and engages with a lock rod 18 which is supported in the door so as to be axially displaceable (apparent from Figure 1) with teeth (portioned engages gear 15a, Figure 2) on at least one side, and at least one lock element 6 which is held in the door so as to be rotatable or swivelable (apparent from Figure 4) and which is coupled with the lock rod (Figure 1). Fisher further discloses that for each lock element, a driven toothed wheel 4, 15 is directly connected to the lock element against rotation with respect to the lock element (apparent from Figure 5) and engages with the toothing of the lock rod (Figures 1 and 5). Fisher also

Art Unit: 3673

discloses that the driven toothed wheel is held on the door in a rotatable manner in order to couple the lock rod with the at least one lock element (Figures 1 and 5).

14. **In regards to claim 21**, Fisher discloses that the lock rod is supported so as to be axially displaceable in a plurality of separate metal guide parts 17.

15. **In regards to claim 22**, Fisher discloses that the lock rod is supported so as to be axially displaceable, and is guided in an elongated metal profile (profile created by component 17, Figure 2).

16. **In regards to claim 23**, Fisher discloses that the lock rod is guided near the edge of the door (Figure 1).

17. **In regards to claims 25 and 26**, Fisher discloses that the lock element includes a bent and/or shaped sheet metal lug 5 which can be swiveled in behind a housing contour 12 or cabinet frame contour (Figure 4).

18. **In regards to claims 27, 29, and 30**, Fisher discloses that the lock element includes a metal carrier part 3 on which a shaped part 5 made of a material so that the shaped part can slide so as to be swiveled in behind a housing contour 12 or cabinet frame contour (Figure 4).

19. **In regards to claim 28**, Fisher discloses that the shaped part which is arranged on the lock element for engaging behind the housing contour or cabinet frame contour has a curved contour (contour shown near reference character 5, Figure 5) which enables a long closing path (apparent from Figure 1).

Art Unit: 3673

20. **In regards to claims 31 and 40**, Fisher discloses that the metal profile has a “substantially” U-shaped cross section (cross section shown in Figure 3) which encloses the lock rod and toothed wheels (Figure 2).

21. **In regards to claim 32**, Fisher discloses that the U-shaped profile can be closed by a cover (cover created by portion 10, Figure 3).

22. **In regards to claim 39**, Fisher discloses that the lock rod is guided in such a way that it lies between the door frame and the toothed wheel (apparent from Figures 1-3).

***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).



Art Unit: 3673

25. **Claim 24 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Fisher (US-959494) in view of Munich et al. (US-5172944). Fisher discloses the fastener as applied to claim 20 above, with the at least one lock element being arranged on the driven toothed wheel so as to be rigid against rotation with respect to the driven toothed wheel (apparent that the lock element is rigidly connected to the shaft 4 of the driven toothed wheel, Figure 5), but fails to disclose a second lock element that is arranged on the drive toothed wheel so as to be rigid against rotation with respect to the drive toothed wheel. Munich et al. teaches a fastener (Figure 2) having at least one lock element 18 arranged on a driven toothed wheel (toothed portion 50 of component 18, Figure 2) so as to be rigid against rotation with respect to the driven toothed wheel, and a second lock element 22 arranged on a drive toothed wheel (toothed portion 50 of component 22, Figure 2) so as to be rigid against rotation with respect to the drive toothed wheel, with the drive toothed wheel connected to an actuation member 16. Since the inclusion of a second lock element on the drive toothed wheel disclosed by Fisher would not hinder the ability of the drive toothed wheel to engage the lock rod, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a second lock element on the drive toothed wheel (include on portion 4a of drive toothed wheel, Figure 3) in the same manner that the at least one lock element is arranged on the driven toothed wheel, since Munich et al. teaches the use of a lock element with a toothed wheel that is connected to an actuation member and in order to enhance the security of the device.

Art Unit: 3673

26. **Claims 33-36 and 38 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Fisher (US-959494) in view of Segawa (US Pub. No. 2003/0024285 A1).

27. **In regards to claim 33**, Fisher discloses the fastener as applied to claims 20-23, 25-32, 39, and 40 above, but fails to disclose that the actuation member includes a swivel lever that can be folded into a trough arranged on the door. Segawa teaches an actuation member (Figure 5) or handle including a swivel lever 13 that can be folded into a trough 1 arranged on a door 2. Since the replacement of the actuation member or handle disclosed by Fisher with the handle taught by Segawa would not hinder the ability of the toothed wheel engaging the lock bar, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the handle disclosed by Fisher with the handle taught by Segawa since it handle taught by Segawa would rotate in the same manner as the handle disclosed by Fisher and since the handle of Fisher and the handle of Segawa are considered as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other.

28. **In regards to claim 34**, Segawa teaches that the tough includes saw-proofing protection 24 (Figure 7).

29. **In regards to claim 35**, Segawa teaches that the saw-proofing protection can also be retrofitted into an inner contour (portion near reference character 27, Figure 5) of the swivel lever.

Art Unit: 3673

30. **In regards to claim 36**, Segawa teaches that the saw-proofing protection is a cylindrical pin (Figure 7), and is supported in the handle lever so as to be rotatable around a cylinder axis (axis through pin, Figure 7) of the cylindrical pin.

31. **In regards to claim 38**, Segawa teaches that the trough has shallow sloping outer side walls (apparent from Figure 1).

32. **Claim 37 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Fisher (US-959494) in view of Segawa (US Pub. No. 2003/0024285 A1) in further view of Jancsek (US-5862690).

33. **In regards to claim 37**, Fisher in view of Segawa discloses the fastener's handle as applied to claims 33-36 and 38 above, but fails to teach that the trough includes a lettering surface for displaying the rotating direction or other writing and/or symbols such as company logos. Jancsek teaches a handle (Figure 1) with a trough 22 that includes a lettering surface 34 for displaying writing and/or symbols such as a company logo 36. Since the inclusion of a letting surface on the trough of the handle taught by Segawa would not hinder the ability of the handle to actuate the fastener, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a lettering surface in order to allow an individual to make the fastener aesthetically pleasing.

### ***Response to Arguments***

34. Applicant's arguments filed 8 January 2009 have been fully considered but they are not persuasive.

Art Unit: 3673

35. In regards to applicant's remarks in Section II of the remarks, applicant is referred to the drawing objection above and the rejection of claims 20-40 under 35 U.S.C. 112, first paragraph, above. The previous drawing objection stating that the drive toothed wheel 18 must be shown in the drawings set forth in the previous office action is withdrawn. However, as discussed above, Figures 7, 8A, and 8B are not being considered at this time until further explanation from applicant regarding the enablement issues discussed above.

36. In regards to applicant's remarks in Section III of the remarks, the rejection of claims 20-40 under 35 U.S.C. 112, first paragraph, set forth in the previous office action is withdrawn, however, a new rejection of claims 20-40 under 35 U.S.C. 112, first paragraph, is set forth above, since the drawings, specification, and claims still raise further 112, first paragraph, enablement issues. As a note, in regards to applicant's remarks within this section, applicant refers to Figure 3 when referencing drive toothed wheel 18. This is incorrect, since the amended Figure 3 includes the driven toothed wheel 26, as referenced in the 35 U.S.C. 112, first paragraph, rejection above.

37. The examiner appreciates applicant's amendment to claims 20, 24, 34, and 36, and therefore, the rejection of claims 20, 24, 34, and 36 under 35 U.S.C. 112, second paragraph, set forth in the previous office action is withdrawn.

38. In regards to applicant's remarks concerning the phrase "closing forces" recited in claim 28, applicant is referred to the rejection of claim 28 under 35 U.S.C. 112, first paragraph, above, and therefore, the rejection of claim 28 under 35 U.S.C. 112, second paragraph, set forth in the previous office action is withdrawn. As discussed above, the

Art Unit: 3673

paragraphs that applicant refers to in the remarks only state that "wherever high closing force must be overcome or long closing paths must be implemented" not that closing forces are loaded onto the shaped part. Furthermore, it is unclear whether the closing forces are loaded onto the shaped part by the driven toothed wheel's rotation by the lock rod or another component of the device.

39. In regards to applicant's remarks concerning claim 30, the examiner agrees that claim 30 is supported by originally filed claim 10, however, the specification should include language from claim 30 that states that the lock element, in its entirety, is made of plastic or of a metal part with coating of a material, as discussed in the objection to the specification set forth above.

40. In regards to applicant's remarks concerning claim 36, the examiner agrees that there is sufficient antecedent basis for the cylindrical pin within the claim, and therefore, the rejection of claim 36 under 35 U.S.C. 112, second paragraph, set forth in the previous office action is withdrawn.

41. In regards to applicant's remarks in Section V of the remarks, applicant is referred to the clarification within the 102(b) rejection of claims 20-23, 25-32, 39, and 40 based on Fisher set forth above. Furthermore, the claims do not recite the specific structure referred to by applicant on page 11 of the remarks that accomplish the "direct" connection as argued by applicant. It is clear that the driven toothed wheel 15 of Fisher has a portion 4 that is directly connected to the lock element, as discussed in the rejection above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALYSON M. MERLINO whose telephone number is (571)272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AM  
April 2, 2009  
/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3673